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NEW DELHI, SATURDAY, MAY 23, 1987/JYAISTHA 2, 1909

इस भाग में भिन्न पृष्ठ संख्या दी जाती है जिससे कि यह अलग संकलन के रूप में
रखा जा सके ।

Separate Paging is given to this Part in order that it may be filed as
a separate compilation

भाग II—खण्ड ३—उप-खण्ड (iii) PART II—Section 3—Sub-section (iii)

(संघ राज्य क्षेत्र प्रशासनों को छोड़कर) केन्द्रीय अधिकारियों द्वारा जारी किए गए आदेश और अधिसूचनाएँ
Orders and Notifications issued by Central Authorities (other than Administrations of Union
Territories)

भारत निर्वाचन आयोग

नई दिल्ली, ८ अप्रैल, १९८७

आदेश

आ.प्र. ५९ :—निर्वाचन आयोग का समाधान हो गया है कि नीचे की सारणी के स्तम्भ (२) में यथा विनिर्दिष्ट उत्तर प्रदेश विधान सभा के लिए साधारण निर्वाचन, १९८५ के लिए जो स्तम्भ (३) में विनिर्दिष्ट निर्वाचन-क्षेत्र से हुआ है, स्तम्भ (४) में उसके सामने विनिर्दिष्ट निर्वाचन लड़ने वाले अभ्यर्थी, लोक प्रतिनिधित्व अधिनियम, १९५१ तथा तद्वीन बनाए गए नियमों द्वारा उक्त सारणी के स्तम्भ (५) में यथा उपर्युक्त रूप में अपने निर्वाचन व्ययों का लेखा दाखिल करने में असफल रहे हैं;

और उक्त अभ्यर्थियों ने सम्यक् सूचना दिए जाने पर भी उक्त असफलता के लिए या तो कोई कारण अथवा स्पष्टीकरण नहीं दिया है या उनके द्वारा दिए गए अभ्यावेदन पर, यदि कोई हो, विचार करने के पश्चात् निर्वाचन आयोग का यह समाधान हो गया है कि उनके पास उक्त असफलता के लिए कोई पर्याप्त कारण या न्यायोचित्य नहीं है;

अतः, अब, निर्वाचन आयोग उक्त अधिनियम की धारा १०-क के अनुसरण में नीचे की सारणी के स्तम्भ (४) में विनिर्दिष्ट व्यक्तियों को संसद के किसी भी सदन के या किसी राज्य की विधान सभा अथवा विधान परिषद् के सदस्य चुने जाने और होने के लिए इस आदेश की तारीख से तीन वर्ष की कालावधि के लिए निरहित घोषित करता है।

सारणी

क्रम सं.	निर्वाचन की विशिष्टियां	निर्वाचन-क्षेत्र की क्रम संख्या एवं नाम	निर्वाचन लड़ने वाले अभ्यर्थी का नाम व पता	निराहता का कारण
1	2	3	4	5
1.	उत्तर प्रदेश विधान सभा के लिए साधारण निर्वाचन, 1985	8—डीडीहाट	श्री लाल सिंह, ग्राम बेरीनाग, पो. ओ. बेरीनाग, जिला पिथौरागढ़ (उत्तर प्रदेश)	निर्वाचन व्ययों का कोई लेखा वाखिल नहीं किया।
2.	—वही—	13—नैनीताल	श्री गोविन्द सिंह विष्ट, 29/30 रामजस रोड, तल्लीताल, नैनीताल (उत्तर प्रदेश)	निर्वाचन व्ययों का लेखा समय के अन्दर तथा अपेक्षित रीति से वाखिल नहीं किया।
3.	—वही—	18—धामपुर	श्री ओमप्रकाश, ग्राम रायपुरलकड़ा, पोस्ट नारायन खेड़ी, जिला बिजनौर (उत्तर प्रदेश)	निर्वाचन व्ययों का कोई लेखा वाखिल नहीं किया।
4.	—वही—	—वही—	श्री जमीर अहमद, मौ. सीपीपाड़ा, नगीना, जिला बिजनौर (उत्तर प्रदेश)	—वही—
5.	—वही—	—वही—	श्री बृजसुन्दर, ग्राम हरेवली, पोस्ट राजपुर नवावा, जिला बिजनौर (उत्तर प्रदेश)	—वही—
6.	—वही—	—वही—	श्री मौ. अय्यूब, मौ. गुली सालाब, नहटौर, जिला बिजनौर (उत्तर प्रदेश)	—वही—
7.	—वही—	—वही—	श्री मौ. कासिम, मौ. अफगानान, धामपुर, जिला बिजनौर (उत्तर प्रदेश)	—वही—
8.	—वही—	—वही—	श्री करन सिंह, ग्राम व पोस्ट फूलसन्दा हीरा, जिला बिजनौर, (उत्तर प्रदेश)	—वही—
9.	—वही—	—वही—	श्री भूपेन्द्र कुमार, मौ. जाशियान, नहटौर, जिला बिजनौर (उत्तर प्रदेश)	—वही—
10.	—वही—	19—अफजलगढ़	श्री चन्द्रपाल सिंह, ग्राम व डा. धरमपुर, तह. काशीपुर, जिला नैनीताल (उत्तर प्रदेश)	—वही—

1	2	3	4	5
11. उत्तर प्रदेश विधान सभा के लिए साधारण निर्वाचन, 1985	19—अफजलमठ	श्री हरी सिंह, ग्राम नसीबपुर, डा. ताहरपुर, जिला बिजनौर (उत्तर प्रदेश)	निर्वाचन व्ययों का कोई लेखा दाखिल नहीं किया।	
12. —वही—	—वही—	श्री हरपाल सिंह, ग्राम कुजेटा, डा. नद्वापुर, जिला बिजनौर (उत्तर प्रदेश)	—वही—	
13. —वही—	—वही—	श्री हरी कुंवर, ग्राम हिसोला, नजीबाबाद, जिला बिजनौर (उत्तर प्रदेश)	—वही—	
14. —वही—	22—बिजनौर	श्रीमती जमीला, ग्राम व डा. टाण्डा माईवास, जिला बिजनौर (उत्तर प्रदेश)	—वही—	
15. —वही—	23—बांखपुर	श्री अजयपाल, ग्राम अखलासपुर, पोस्ट पावटी, जिला बिजनौर (उत्तर प्रदेश)	—वही—	
16. —वही—	—वही—	श्री रईस अहमद, ग्राम सल्लाहपुर, पोस्ट हल्दौर, जिला बिजनौर (उत्तर प्रदेश)	—वही—	
17. —वही—	वही	श्री रामपाल सिंह, ग्राम लतीफपुर खुखेड़ी, पोस्ट औरंगाबाद, जिला बिजनौर (उत्तर प्रदेश)	—वही—	
18. —वही—	—वही—	ग्राम फजलपुर ठाकी, पोस्ट मसीत, जिला बिजनौर (उत्तर प्रदेश)	—वही—	
19. —वही—	—वही—	श्री संग्राम सिंह, ग्राम मुस्तफाबाई उर्फ गदनपुरा, पोस्ट, हीमपुरखीपा, जिला बिजनौर (उत्तर प्रदेश)	—वही—	
20. —वही—	62—निगोही	श्री सियाराम, पुत्र श्री रामपाल, ग्राम सन्तोषपुर, पो. समधाना, तह. तिलहर जिला शाहजहाँपुर (उत्तर प्रदेश)	निर्वाचन व्ययों का लेखा समय के अन्दर तथा अपेक्षित रीति से दाखिल नहीं किया।	

1	2	3	4	5
21.	उत्तर प्रदेश विधान सभा के लिए साधारण निर्वाचन, 1985	64—जलालाबाद	श्री राम भरोसे, ग्राम रुस्तमपुर, पो. जलालाबाद, जिला शाहजहांपुर (उत्तर प्रदेश)	निर्वाचन व्ययों का कोई लेखा दाखिल नहीं किया।
22.	-वही-	79—सीतापुर	श्री प्रेमनारायन, मो. परेड, जिला सीतापुर (उत्तर प्रदेश)	-वही-
23.	-वही-	92—बांगरमऊ	श्री गया प्रसाद कुरील, ग्राम कैथोली, पो. बमौली इस्लामाबाद, जिला उन्नाव (उत्तर प्रदेश)	-वही-
24.	-वही-	-वही-	श्री बचे लाल, ग्राम जामड़, पो. राजेपुर, जिला उन्नाव (उत्तर प्रदेश)	-वही-
25.	-वही-	-वही-	श्री सुबेदार यादव, ग्राम खलकखेड़ा, पोस्ट दबौली, जिला उन्नाव (उत्तर प्रदेश)	-वही-
26.	-वही-	96—भगवन्त नगर	श्री रविन्द्र नाथ, ग्राम व पो. भगवन्त नगर, जिला उन्नाव (उत्तर प्रदेश)	निर्वाचन व्ययों का लेखा समय के अन्दर तथा अपेक्षित रीति से दाखिल नहीं किया।
27.	-वही-	141—हैबरगढ़	श्री बसीरुल हसन, बेगमगंज (सिविल लाइन) सी. 89, जिला बाराबंकी (उत्तर प्रदेश)	निर्वाचन व्ययों का कोई लेखा दाखिल नहीं किया।
28.	-वही-	-वही-	डा. जमील अहमद खान मो. धोसिया, पो. हैबरगढ़, जिला बाराबंकी (उत्तर प्रदेश)	-वही-
29.	वही	154—गैसडी	श्री शम्स तबरेज खां बारासी, ग्राम शकरपुर कलां, पोस्ट भाचर, जिला गोण्डा (उत्तर प्रदेश)	वही
30.	-वही-	160—मुजेहना	श्री मोहम्मद फारूक, ग्राम व पो. घानेपुर, जिला गोण्डा (उत्तर प्रदेश)	-वही-
31.	-वही-	-वही-	श्री स्यामलाल पुत्र श्री कुंजी, ग्राम रोठिया, पो. मोतीगंज, जिला गोण्डा (उत्तर प्रदेश)	-वही-

1	2	3	4	5
32.	उत्तर प्रदेश विधान सभा के लिए माधवारण निर्वाचन, 1985	160—मजेहना	श्री विरेन्द्र सिंह, ग्राम मूंजीदेई, पो. मेहनोना, जिला गोण्डा (उत्तर प्रदेश)	निर्वाचन व्ययों का लेखा अपेक्षित रीति से दाखिल नहीं किया।
33.	—वही—	161—गोण्डा	पं. श्रीकांत त्रिवेदी, बड़गांव, जिला गोण्डा (उत्तर प्रदेश)	निर्वाचन व्ययों का कोई लेखा दाखिल नहीं किया।
34.	—वही—	162—कटराबाजार	श्री राज मणि ओझा, ग्राम अशोकपुर, पो. धोवहाराय, जिला गोण्डा (उत्तर प्रदेश)	—वही—
35.	—वही—	—वही—	श्रीराम पुत्र श्री रामदीन, ग्राम गोरवा खुर्द, पो. पहाड़ापुर, जिला गोण्डा (उत्तर प्रदेश)	—वही—
36.	—वही—	163—करनैलगंज	श्री अजय कुमार, ग्राम डिकसिर, पोस्ट उमरी बेगमगंज, जिला गोण्डा (उत्तर प्रदेश)	—वही—
37.	—वही—	—वही—	श्री कालीदीन, ग्राम ब पोस्ट भमवा, जिला गोण्डा (उत्तर प्रदेश)	—वही—
38.	—वही—	182—कौडीराम	श्री चन्द्रभान, ग्राम झरना टोला, पो. कुडाप्पाठ, जिला गोरखपुर (उत्तर प्रदेश)	—वही—
39.	—वही—	—वही—	श्री सीताराम पाण्डे, ग्राम चारपान बुजुर्ग, पो. डबरपार जिला गोरखपुर (उत्तर प्रदेश)	—वही—
40.	—वही—	186—मनीराम	श्री अशोक कुमार त्रिपाठी, 453, झलीनगर उत्तरी, जिला गोरखपुर, (उत्तर प्रदेश)	—वही—
41.	—वही—	—वही—	श्री गुरु सेवक, 6/48 बेनीगंज (खट्टिक, टोसी) गोरखपुर (उत्तर प्रदेश)	—वही—
42.	—वही—	—वही—	श्री मोहम्मद अमीन अंसारी, म. न. 131/2 मो. रसूलपुर दशहरीबाग, जिला गोरखपुर (उत्तर प्रदेश)	—वही—
43.	—वही—	—वही—	श्री शौकत अली, धर्मशाला बाजार, गोरखपुर (उत्तर प्रदेश)	—वही—

1	2	3	4	5
44.	उत्तर प्रदेश विधान सभा के लिए माधवारण निर्वाचन, 1985	239-बकिया	श्री बच्चू, ग्राम सेमरा कुशही, पोस्ट नौगढ़ जिला बाराणसी (उत्तर प्रदेश)	निर्वाचन व्ययों का लेखा समय के अन्दर तथा रीति से दाखिल नहीं किया।
45.	—वही—	241-बाराणसी कैंट	श्री भागीरथी प्रसाद, ग्राम ब पोस्ट सुन्दरपुर, जिला बाराणसी (उत्तर प्रदेश)	—वही—
46.	—वही—	248-शानपुर	श्री राजाराम, जोहरपुर, गोपीगंज जिला बाराणसी, (उत्तर प्रदेश)	—वही—
47.	—वही—	264-मझवा	श्री रामेश चन्द्र, ग्राम तरकापुर ग्रामीण (बनुआ का पोखरा) सदर, जिला मिर्जापुर (उत्तर प्रदेश)	—वही—
48.	—वही—	268-करछना	श्री लच्छनधारी, ग्राम ब पोस्ट कठौली, जिला इलाहाबाद (उत्तर प्रदेश)	—वही—
49.	—वही—	271-हडिया	श्री शेषमनी ग्राम रानीपुर, पोस्ट सिरसा चौराहा हडिया जिला इलाहाबाद (उत्तर प्रदेश)	—वही—
50.	—वही—	282-किशुनपुर	श्री जगजीवन, ग्राम नरैनी, पो. खखरेंडू, जिला फतेहपुर (उत्तर प्रदेश)	निर्वाचन व्ययों का कोई लेखा दाखिल नहीं किया।
51.	—वही—	—वही—	श्री देश राज, ग्राम ब पो. असोधर, जिला फतेहपुर (उत्तर प्रदेश)	—वही—
52.	—वही—	288-सिसामऊ (प्र. जा.)	श्री दोलत राम, 105/426 बभनगंज, कुरियामा, जिला कानपुर नगर (उत्तर प्रदेश)	—वही—
53.	—वही—	289-अनरसगंज	श्री हरशाय अली, 97/151 तलाक मोहल, कानपुर (उत्तर प्रदेश)	निर्वाचन व्ययों का लेखा समय के अन्दर तथा अपेक्षित रीति से दाखिल नहीं किया।
54.	—वही—	302-अजीतमल (प्र. जा.)	श्री कन्हैया लाल, 223, सराय बाबरपुर, पो. औरैया, जिला इटावा, (उत्तर प्रदेश)	—वही—
55.	—वही—	327-ललितपुर	श्री हर सिंह, ग्राम खांदी, तहसील तालबैठ, जिला ललितपुर (उत्तर प्रदेश)	—वही—

1	2	3	4	5
56.	उत्तर प्रदेश विधान सभा के लिए साधारण निर्वाचन, 1985.	342-मैनपुरी	श्री कुंवर सनेन्द्र सिंह, ग्राम गंगा जमुनी, पोस्ट लखौरा, जिला मैनपुरी (उत्तर प्रदेश)	निर्वाचन व्यर्थों का कोई लेखा दाखिल नहीं किया।
57.	—वही—	—वही—	श्री रवीन्द्र कुमार सिंह, रेलवे क्रासिंग के पार झीनानी रोड, मैनपुरी (उत्तर प्रदेश)	—वही—
58.	—वही—	—वही—	श्री रामेश्वर बयाल, ग्राम पुनुपुरा, मजरा बसरा सुल्तानपुर, जिला मैनपुर (उत्तर प्रदेश)	—वही—
59.	—वही—	—वही—	श्री सहदेव सिंह, ग्राम ब.डा. नौगांव, जिला मैनपुरी (उत्तर प्रदेश)	—वही—
60.	—वही—	352-बाह	श्री जय प्रकाश, 2, कृष्णा बिल्डिंग, मुन्नेलाल धर्मशाला रोड, चारबाग, लखनऊ (उत्तर प्रदेश)	—वही—
61.	—वही—	—वही—	श्रीराम बहादुर, ग्राम तरासी, मो. पुराकन्हेरा, जिला भागरा (उत्तर प्रदेश)	—वही—
62.	—वही—	—वही—	श्री मुनील कुमार गुप्ता (सनेन्द्र), पिनाहट न्यू एजेंसीज, बस स्टैंड पिनाहट, जिला भागरा (उत्तर प्रदेश)	—वही—
63.	—वही—	—वही—	श्री सूरज पाल, ग्राम मढूकापुरा, पोस्ट बरेडा, जिला भागरा (उत्तर प्रदेश)	—वही—
64.	—वही—	—वही—	श्री सुरेश सिंह यादव, ग्राम सूरजनगर, मजरामोजा चित्रहाट, पोस्ट चित्रहाट, जिला भागरा (उत्तर प्रदेश)	—वही—
65.	—वही—	355-एतमादपुर	श्री भगवान सिंह, ग्राम ब पोस्ट हसनपुर, जिला भागरा (उत्तर प्रदेश)	—वही—
66.	—वही—	—वही—	श्री राम महाय, ग्राम ब पोस्ट सेंमरा, जिला भागरा (उत्तर प्रदेश)	—वही—

1	2	3	4	5
67.	उत्तर प्रदेश विधान सभा के लिए साधारण निर्वाचन, 1985	355-एरभासपुर	श्री नारायण सिंह, ग्राम गङ्गीरामी, पो. छलेतार, जिला भागरा (उत्तर प्रदेश)	निर्वाचन व्ययों का कोई लेखा दाखिल नहीं किया
68.	—वही—	357-भागरा कैंट	श्री राजेन्द्र कुमार, 10/104 वीआइमन्डी, साजगंज, भागरा (उत्तर प्रदेश)	—वही—
69.	—वही—	382-मुक्तेश्वर	श्री कुंवर पाल, ग्राम पलवाडा खास, जिला गाजियाबाद (उत्तर प्रदेश)	—वही—
70.	—वही—	—वही—	श्री मुकेश, मंडी जवाहर गंज, गढ़मुक्तेश्वर, जिला गाजियाबाद, (उत्तर प्रदेश)	—वही—
71.	—वही—	—वही—	श्री विपिन कुमार गर्ग, राधा भवन, चण्डी रोड, हापुड़ जिला गाजियाबाद (उत्तर प्रदेश)	—वही—
72.	—वही—	392-गढ़मुक्तेश्वर	श्री मलखान सिंह, ग्राम धनपुरा, डा. दतियाना, जिला गाजियाबाद (उत्तर प्रदेश)	—वही—
73.	—वही—	—वही—	श्री महेश चन्द कौशिक, ग्राम भिम्पारी, डा. बरकायतपुर, जिला गाजियाबाद (उत्तर प्रदेश)	—वही—
74.	—वही—	393-किठौर	श्री सुसद्दी, नबीपुर अमानत नगर, तह. मयाना, जिला मेरठ (उत्तर प्रदेश)	निर्वाचन व्ययों का लेखा समय के अन्दर तथा अपेक्षित रीति में दाखिल नहीं लिखा
75.	—वही—	405-खतौली	श्री लाल सिंह, 63, पक्का बाग खतौली, जिला मुजफ्फरनगर (उत्तर प्रदेश)	—वही—
76.	—वही—	415-नागल (अ. जा.)	श्री तारा चन्द, मोहल्ला कडूछ, ज्यालापुर, जिला सहारनपुर (उत्तर प्रदेश)	—वही—

[सं. 76/उ.प्र.—वि.स./85 (14)]

आदेश से,

सूरज प्रकाश, भवर सचिव

ELECTION COMMISSION OF INDIA

New Delhi, the 8th April, 1987

ORDER

O.N. 59,—Whereas the Election Commission is satisfied that each of the contesting candidate specified in column (4) of the Table below at the General election to the Uttar Pradesh Legislative Assembly, 1985 specified in column (2) held from the constituency specified in column (3) against his name has failed to lodge the account of his election expenses as shown in column (5) of the said Table, as required by the Representation of the People Act, 1951 and the Rules made thereunder;

And, Whereas the said candidates have either not furnished any reason or explanation for the said failure even after due notice of the Election Commission or after considering the representations made by them, if any, is satisfied that they have no good reason or justification for the said failure;

Now, therefore, in pursuance of Section 10A of the said Act, the Election Commission hereby declares the persons specified in column (4) of the Table below to be disqualified for being chosen as, and for being, a member of either House of the Parliament or of the Legislative Assembly or Legislative Council of a State for a period of 3 years from the date of this Order.

TABLE

S. No.	Particulars of Election	S. No. & Name of Constituency	Name and address of the Contesting Candidate	Reason of disqualification
1	2	3	4	5
1.	General Election to the U.P. Legislative Assembly, 1985.	8-Didihat	Shri Lal Singh, Vill. Berinag, P.O. Berinag, Distt. Pithoragarh, (U.P.)	Failed to lodge any account of election expenses.
2.	-do-	13-Nainital	Shri Govind Singh Bisht, 29/30, Ramjas Road, Tallital, Nainital, (U.P.)	Failed to lodge the account within the time & in the manner
3.	-do-	18-Dhampur	Shri Om Prakash, Vill. Raipur Lakra, P.O. Narayan Kheri, Distt. Bijnor (U.P.)	Failed to lodge any account of election expenses.
4.	-do-	-do-	Shri Zamir Ahmad, Moh. Sipipada, Nagina, Distt. Bijnor (U.P.)	-do-
5.	-do-	-do-	Shri Brijnandan, Vill. Harevali, P.O. Rajpur Nawada, Distt. Bijnor (U.P.)	-do-
6.	-do-	-do-	Mohd. Ayyub, Mohalla-Gulitalan, Nahtaur, Distt. Bijnor, (U.P.)	-do-
7.	-do-	-do-	Mohd. Qasim, Mohalla Afghanan, Dhampur, Distt. Bijnor, (U.P.)	-do-
8.	-do-	-do-	Shri Karan Singh, Vill. & P.O. Fulbanda Heera, Distt. Bijnor (U.P.)	-do-
9.	-do-	-do-	Shri Bhupendra Kumar, Mohalla-Jashiyar, Nahtaur, Distt. Bijnor, (U.P.)	-do-

1	2	3	4	5
10.	General Election to the U.P. Legislative Assembly, 1985.	19-Afzalgarh	Shri Chandra Pal Singh, Vill. & P.O. Dharampur, Teh. Kashipur, Distt. Nainital (U.P.)	Failed to lodge any account of election expenses.
11.	-do-	-do-	Shri Hari Singh, Vill. Nasibpur, P.O. Taharpur, Distt. Bijnor (U.P.)	-do-
12.	-do-	-do-	Shri Harpal Singh, Vill. Kunjeta, P.O. Narapur, Distt. Bijnor (U.P.)	-do-
13.	-do-	-do-	Shri Hari Kunwar, Vill. Tisotra, Najibabad, Distt. Bijnor (U.P.)	-do-
14.	-do-	22-Bijnor	Smt. Jamila, Vill. & P.O. Tanda Maidas, Distt. Bijnor (U.P.)	-do-
15.	-do-	23-Chandpur	Shri Ajaypal, Vill. Akhlaipur, P.O. Pawati, Distt. Bijnor (U.P.)	-do-
16.	-do-	-do-	Shri Rais Ahmad, Vill. Salladpur, P.O. Haldaur, Distt. Bijnor (U.P.)	-do-
17.	-do-	-do-	Shri Rampal Singh, Vill. Latilpur Chukheri, P.O. Aurangabad, Distt. Bijnor (U.P.)	-do-
18.	-do-	-do-	Shri Shahid, Vill. Fazalpur Dhaki, P.O. Masit, Distt. Bijnor (U.P.)	-do-
19.	-do-	-do-	Shri Sangram Singh, Vill. Mustafabad Urf Gadanpura, P.O. Himpur Deepa, Distt. Bijnor (U.P.)	-do-
20.	-do-	52-Nigohi	Shri Siya Ram, S/o Shri Rampal, Vill. Santoshpur, P.O. Samdhana, Teh. Tilhar, Distt. Shahjahanpur (U.P.)	Failed to lodge the account within time & in the manner.
21.	-do-	64-Jalalabad	Shri Rambharose, Vill. Rustampur, P.O. Jalalabad, Distt. Shahjahanpur, (U.P.)	Failed to lodge any account of election expenses.
22.	-do-	79-Sitapur	Shri Prem Narayan, Moh. Pared, Distt. Sitapur (U.P.)	-do-

1	2	3	4	5
23.	General Election to the U.P. Legislative Assembly, 1985.	92-Bangarmau	Shri Gaya Prasad Kureel, Vill-Kacholi, P.O. Byodi Islamabad, Distt. Unnao, (U.P.)	Failed to lodge any account of election expenses.
24.	-do-	-do-	Shri Beche Lal, Vill. Jamad, P.O. Rajepur, Distt. Unnao (U.P.)	-do-
25.	-do-	-do-	Shri Subedar Yadav, Vill. Khalak Khera, P.O. Dawoli, Distt. Unnao (U.P.)	-do-
26.	-do-	96-Bhagwantnagar	Shri Ravinder Nath, Vill. & P.O. Bhagwantnagar, Distt. Unnao (U.P.)	Failed to lodge the account within the time & in the manner.
27.	-do-	141-Haidergarh	Shri Bashirul Hasan, Begamganj (Civil Lines), C-89, Distt. Barabanki, (U.P.)	Failed to lodge any account of election expenses.
28.	-do-	-do-	Dr. Jamil Ahmad Khan, Moh. Ghosiya, P.O. Haidergarh, Distt. Barabanki (U.P.)	-do-
29.	-do-	154-Gansari	Shri Shams Tawarez Khan Warsi, Vill. Shakarpur Kalan, P.O. Bhachar, Distt. Gonda (U.P.)	-do-
30.	-do-	160-Mujehna	Shri Mohammad Faruq, Vill & P.O. Dhanepur, Distt. Gonda (U.P.)	-do-
31.	-do-	-do-	Shri Shyam Lal, S/o Shri Kunji, Vill. Sothia, P.O. Motiganj, Distt. Gonda (U.P.)	-do-
32.	-do-	-do-	Shri Virender Singh, Vill. Goongi Dei, P.O. Mehnona, Distt. Gonda (U.P.)	Failed to lodge the account in the manner.
33.	-do-	161-Gonda	Pt. Shrikant Dwivedi, Badgaon, Distt. Gonda, (U.P.)	Failed to lodge any account of election expenses
34.	-do-	162-Katra Bazar	Shri Rajmani Ozha, Vill. Ashokpur, P.O. Dhawharay, Distt. Gorakhpur (U.P.)	-do-
35.	-do-	-do-	Shri Ram, S/o Shri Ram Din, Vill. Gorwa Khurd, P.O. Paharapur, Distt. Gonda (U.P.)	-do-
36.	-do-	163 Karnailganj	Shri Ajay Kumar, Vill Dixir, P.O. Umari Begamganj, Distt. Gonda (U.P.)	-do-

1	2	3	4	
37.	General Election to U.P. Legislative Assembly, 1985.	163-Karnailganj	Shri Kalidin, Vill. & P.O. Bhabhwa, Distt. Gonda (U.P.)	Failed to lodge any account of election expenses.
38.	-do-	182-Kauriram	Shri Chanderbhan, Vill. Jharna Tola, P.O. Kuraghat, Distt. Gonda (U.P.)	do
39.	-do-	-do-	Shri Sita Ram Pandey, Vill. Charpan Buzurg, P.O. Dawarpar Distt. Gorakhpur (U.P.)	-do-
40.	-do-	186-Maniram	Shri Ashok Kumar Tripathi, 453, Alinagar North, Distt. Gorakhpur (U.P.)	-do-
41.	-do-	-do-	Shri Guru Sewak, 36/48, Beniganj (Khatik Tali) Gorakhpur (U.P.)	-do-
42.	do	do	Shri Moh. Amin Ansari, H.No. 131/2 Mohalla Rasoolpur, Dashaharibagh, Distt. Gorakhpur (U.P.)	-do-
43.	-do-	-do-	Shri Shaikat Ali, Dharamshala Bazar, Gorakhpur North (U.P.)	-do-
44.	-do-	239-Chakia	Shri Bachau, Vill. Semra Kushahi, P.O. Naugarh, Distt. Varanasi (U.P.)	Failed to lodge the account within the time & in the manner.
45.	-do-	241-Varanasi Cantt.	Shri Bhagirathi Prasad, Vill & P.O. Sunderpur, Distt. Varanasi (U.P.)	-do-
46.	-do-	248-Gyanpur	Shri Raja Ram, Joharpur, Gopiganj, Distt. Varanasi (U.P.)	-do-
47.	-do-	264-Majhwan	Shri Ramesh Chander Vill. Tarkapur Gramin, (Babua Ka Pekhra) Sadar, Distt. Mirzapur (U.P.)	-do-
48.	-do-	268-Karchhana	Shri Lachhandhari, Vill. & P.O. Katholi, Distt. Allahabad (U.P.)	-do-
49.	-do-	271-Handia	Shri Sheshmani Vill. Ranipur, P.O. Sirsa Chauraha, Handia, Distt. Allahabad (U.P.)	-do-
50.	-do-	282-Kishunpur	Shri Jagjiwan, Vill Naraini, P.O. Khakhrendu, Distt. Fatehpur (U.P.)	Failed to lodge any account of election expenses.
51.	-do-	-do-	Shri Desh Raj, Vill & P.O. Asodhar, Distt. Fatehpur (U.P.)	-do-
52.	-do-	288-Sismau (SC)	Shri Daulat Ram, 105/426, Chamanganj, Kuriyana, Distt. Kanpur (U.P.)	-do-

1	2	3	4	5
53.	General Election to the U.P. Legislative Assembly, 1985.	289-Generalganj	Shri Irshad Ali, 97/151, Talaq Mohal, Kanpur (U.P.)	Failed to lodge the account within time & in the manner
54.	-do-	302-Ajithal (SC)	Shri Kanhiya Lal, 223, Saray Babarpur, Pargana, Auraiya, Distt. Etawa (U.P.)	-do-
55.	-do-	327-Lalitpur	Shri Har Singh, Vill. Khandi, Tah. Talbehath, Distt. Lalitpur (U.P.)	-do-
56.	-do-	342-Mainpuri	Kunwar Satendra Singh, Vill. Ganga Jamuni, P.O. Lakhaura, Distt. Mainpuri (U.P.)	Failed to lodge any account of election expenses
57.	-do-	-do-	Shri Ravindra Kumar Singh, Beyond Railway Crossing, Diwani Road, Mainpuri (U.P.)	-do-
58.	-do-	-do-	Shri Rameshwar Dayal, Vill. Punupura, Majra Basra Sultanpur, Distt. Mainpuri (U.P.)	-do-
59.	-do-	-do-	Shri Sahdev Singh, Vill. & P.O. Naugaon, Distt. Mainpuri (U.P.)	-do-
60.	-do-	352-Bah	Shri Jai Prakash, 2, Krishna Building, Munneelak Dharanshala Road, Charbagh, Lucknow (U.P.)	-do-
61.	-do-	-do-	Shri Ram Bahadur, Vill. Tarason, P.O. Purakanhera, Distt. Agra (U.P.)	-do-
62.	-do-	-do-	Shri Sunil Kumar Gupta, (Sanender), Pinahat New Agencies Bus Stand Pinahat, Distt. Agra (U.P.)	-do-
63.	-do-	-do-	Shri Suraj Pal, Vill. Madhukapura, P.O. Barendra, Distt. Agra (U.P.)	-do-
64.	-do-	-do-	Shri Suresh Singh Yadav, Vill. Surajgar, Majra Manja Chitraghat, P.O. Chitraghat, Distt. Agra (U.P.)	-do-
65.	-do-	355-Etmadpur	Shri Bhagwan Singh, Vill. & P.O. Dasampur, Distt. Agra (U.P.)	-do-
66.	-do-	-do-	Shri Ram Subay, Vill. & P.O. Semra, Distt. Agra (U.P.)	-do-

1	2	3	4	5
67.	General Election to the U.P. Legislative Assembly, 1985	355—Elmadpur	Shri Narayan Singh, Vill. Gahir Rami, 3P.O. Chhalesar, Distt. Agra (U.P.)	Failed to lodge any account of election expenses
68.	-do-	357-Agra Cantt.	Shri Rajendra Kumar, 10/104, Ghiamanai, Tajganj, Agra (U.P.)	-do-
69.	-do-	392 Garh Mukteshwar	Shri Kunwar Pal, Vill. Palwarakhia, Distt. Ghaziabad (U.P.)	-do-
70.	-do-	-do-	Shri Mukhesh, Mandi Jawaharganj, Garhmukteshwar, Distt. Ghaziabad (U.P.)	-do-
71.	-do-	-do-	Shri Vipin Kumar Garg, Radha Bhawan, Chandi Road, Hapur, Distt. Ghaziabad (U.P.)	-do-
72.	-do-	-do-	Shri Malkhan Singh, Vill. Dharipura, P.O. Dattiyana, Distt. Ghaziabad (U.P.)	-do-
73.	-do-	-do-	Shri Mahesh Chand Kaushik, Vill. Bhimbharyi, P.O. Barkayapur, Distt. Ghaziabad (U.P.)	-do-
74.	-do-	39-Kithore	Shri Musaddi, Nabipur Amanatnagar, Teh. Mawana, Distt. Meerut (U.P.)	Failed to lodge the account within the time & in the manner
75.	-do-	405-Khatauli	Shri Lal Singh, 63, Pakka Bagh, Khatauli, Distt. Muzaffar Nagar (U.P.)	-do-
76.	-do-	415-Nagal (SC)	Shri Tara Chand, Mohalla-Karachhh, Jwalopur, Distt. Saharanpur (U.P.)	-do-

[No. 76/UP-LA/85 (14)]

By Order,

SURAJ PRAKASH, Under Secy.

नई दिल्ली, 22 अप्रैल, 1987

भा. ध. 50.—1985 की निर्वाचन अधीन संख्या 1 में नम्बर 50 उच्च न्यायालय के तारीख 2 अप्रैल, 1985 वाले निर्णय के विरुद्ध श्री श्रीताराम जीव्याभाई गावली द्वारा दाखिल की गई 1985 की सिविल अपील संख्या 1632 (एन.सी.ई.) में भारत के उच्चतम न्यायालय के तारीख 25 मार्च, 1987 के निर्णय को लोक प्रतिनिधित्व अधिनियम, 1951 (1951 का 43) की धारा 116 ग (2) के अनुसरण में निर्वाचन आयोग इसके द्वारा प्रकाशित करना है।

[संख्या 82/दा. न. ह. -जी. उ. /1/85]

आदेश से,

टी. सी. सिंघल, प्रवर सचिव

New Delhi, the 22nd April, 1987

O.N. 60.—In pursuance of section 116(C)(2) of the Representation of the People Act, 1951 (43 of 1951), the Election Commission hereby publishes the judgment of the Supreme Court of India dated 25th March, 1987 in Civil Appeal No. 1632 (NCE) of 1985 filed by Shri Sitaram Jivabhai Gavali against the judgment of the Bombay High Court dated 2nd April, 1985 in Election Petition No. 1 of 1985.

[No. 82/DNH-HP/1/85]

By Order,

T. C. SINGHAL, Under Secy.

IN THE SUPREME COURT OF INDIA

CIVIL APPELLATE JURISDICTION

CIVIL APPEAL NO. 1632 OF 1985

Sitaram Jivyaabhai Gavali —Appellant
VERSUS

Ramjibhai Potiyabhai Nahala —Respondents
& Others.

JUDGMENT

VENKATARAMIAH, J.

The appellant is a person belonging to a Scheduled Tribe. At the last General Election held to the Lok Sabha he was declared duly elected from the Dadra and Nagar Haveli Parliamentary Constituency by a substantial majority. After the declaration of the result of the election the 1st Respondent, who was one of the defeated candidates, filed an election petition in Election Petition No. 1 of 1985 on the file of the High Court of Bombay calling in question the result of the election on the ground that the appellant was disqualified to be chosen as a member of the Lok Sabha on the date of the scrutiny of the nomination papers, because he held an office of profit under the Government other than an office declared by Parliament by law not to disqualify its holder. The High Court accepted the contention of the 1st Respondent and set aside the election of the appellant by its judgment dated April 2, 1985. This appeal is filed under section 16-A of the Representation of People Act, 1951 (hereinafter referred to as 'the Act') against the judgment of the High Court.

The facts of the case may be summarised thus. The 1st Respondent was a Member of the last Lok Sabha. On 13-11-1984 elections to the present Lok Sabha were announced. The appellant, who was holding the post of an Investigator as a temporary Government servant in the Union territory of Dadra and Nagar Haveli decided to contest the election from the Dadra and Nagar Haveli Parliamentary Constituency, which was a constituency reserved for the members belonging to the Scheduled Tribes. He had been appointed on 2-5-1979 as a Junior Clerk on a temporary basis in the Administration of Dadra and Nagar Haveli. His appointment was subject to the conditions mentioned in the order of appointment and amongst the said conditions there were the following three conditions :

- "1. He will be governed by the Central Civil Services Rules.
2. The appointment is purely on temporary basis and is liable to be terminated at ONE month's notice.
3.
4.
5.
6. Before resigning the post, he shall have to give one month's notice to the Administration failing which he shall have to remit

one month's notice pay before he could be relieved from service.

The above order of appointment was issued by the Collector of the Union territory of Dadra and Nagar Haveli, Silvassa. The relevant Central Civil Services Rules which governed the appellant were the Central Civil Services (Temporary Service) Rules, 1965 (hereinafter referred to as 'the CCS Temporary Service Rules'). Rule 5(1) of the said Rules, which dealt with the termination of temporary service, read as follows :

"5(1)(a). Termination of Temporary Service—

The service of temporary Government servant who is not in quasi-permanent service shall be liable to termination at any time by a notice in writing given either by the Government servant to the appointing authority or by the appointing authority to Government servant.

(b) The period of such notice shall be one month.

Provided that the service of any such Government servant may be terminated forthwith and on such termination the Government servant shall be entitled to claim a sum equivalent to the amount of his pay plus allowances for the period of the notice at the same rates at which he was drawing them immediately before the termination of his services, or as the case may be for the period by which such notice falls short of one month."

The last date for filing the nomination was 27-11-1984 and the date of scrutiny of the nomination papers was 28-11-1984. The appellant who was then working as an Investigator attached to the office of the Development and Planning Officer, Dadra and Nagar Haveli, Silvassa, wrote a letter on November 21, 1984 to the Collector of Dadra and Nagar Haveli, who was the appointing authority, tendering his resignation. The said letter read as follows :

"From :

Shri Sitaram J. Gavali,
Investigator,
Office of the Development &
Planning Officer,
Dadra and Nagar Haveli,
Silvassa.

Silvassa,

November 21, 1984

To

The Hon. Collector,
Dadra and Nagar Haveli,
Silvassa.

Respected Sir,

As I intend to contest the forthcoming Parliament Election from Dadra and Nagar Haveli Parliamentary (Constituency). I the

undersigned hereby give up my post of Investigator which I am holding as temporary Government servant forthwith. As I am giving up my post forthwith I hereby tender my pay plus allowances of one month vice Demand Draft No. C-199981 from State Bank of India, Silvassa Branch dated 21-11-1984 of Rs. 1024.05 (Rupees One Thousand Twenty four and paise five only) in favour of Development and Planning Officer, Dadra and Nagar Haveli, Silvassa. Hence I cease to be a temporary Government servant from today only. This letter of giving up my post as temporary Government servant is covered by Rule 5(I) (a) of CCS Temporary Service Rules.

Yours faithfully,

Sd/-

(S. J. GAVALI)
Investigator"

The said letter was submitted through the Development & Planning Officer, Dadra and Nagar Haveli Silvassa. Along with the said letter of resignation, as mentioned therein, he sent a demand draft drawn on the State Bank of India for a sum of Rs. 1024.05 paise which he was drawing as monthly pay plus allowances of the post he held immediately before that date. Since he did not get any reply from the Collector to his letter of resignation, on 23-11-1984 he met the Collector and also the Secretary to the Administrator of Dadra and Nagar Haveli who was the returning officer of the said election. Then on 24-11-1984 he wrote a letter to the Development and Planning Officer, Dadra and Nagar Haveli, Silvassa which read thus :

"From :

Shri Sitaram J. Cavali,
Silvassa.
Dt. 24-11-1984

To :

The Development and Planning
Officer,
Dadra and Nagar Haveli,
Silvassa.

Sir,

I have already submitted my application dated 21-11-1984 to the Hon. Collector through the Development and Planning Officer to relieve me from my post with immediate effect and as per the law, I also tendered a sum of Rs. 1024.05 by Demand Draft in favour of the Development and Planning Officer in lieu of one month notice. In view of the said provisions, I ceased to be a Government servant from that date. I had also requested on the same day to take the files and other records of the post held by me. It has been informed by you that the said files and records will be taken only after getting orders of the Collector.

On 23-11-1984, I met the Hon. Collector and Secretary to the Administrator twice who have informed me that you (myself) are now no more a Government servant. As per application dated 21-11-1984, I ceased to be a Government servant from that dated i.e. 21-11-1984. Under the circumstances, I submit herewith all files and other records along with all registers may kindly be taken in your possession so that in future I am eligible to file my nomination for Lok Sabha Election for Dadra and Nagar Haveli Parliamentary Constituency before the Returning Officer. I submit the above mentioned document today, i.e. 24.11-84 at 10.00 hrs. Kindly acknowledge the receipt of the same.

Thanking you,

Yours faithfully,

Sd/-

(S. J. Gavali)"

He submitted a copy of the above letter to the Collector, Dadra and Nagar Haveli also. The said letter referred to the fact that the appellant had met the Collector and also the Secretary of the Administrator on 23-11-1984 and that he had informed the Collector that he was no longer a Government servant. Along with the said letter he handed over all the files, records and registers etc. which were with him along with a list thereof to the head of his office, that is, the Development and Planning Officer. He thereafter filed his nomination paper on 24-11-84. He also filed an additional nomination paper on 26-11-1984. Since the appellant did not get any written reply from the Collector to the above letter of 24-11-1984 till 26-11-1984 he wrote another letter on 26-11-1984 to the Returning Officer, Dadra and Nagar Haveli Constituency, Silvassa, who was also the Secretary to the Administrator, which read thus :

"From :

Shri Sitaram J. Gavali,
Silvassa.
Dt. 26-11-1984

To :

The Returning Officer,
Dadra and Nagar Haveli,
Silvassa.

Respected Sir,

I had been working as temporary Government servant with the designation as 'Investigator' under the Nagar Haveli Administration. The terms of my service are regulated by the 'Central Civil Services (Temporary Service) Rules, 1965'. When Lok Sabha elections were declared on 13-11-1984, I took decision to contest the same. Dadra and Nagar Haveli is reserved constituency for Scheduled Tribes. I belong to the Rokna Tribe which is a declared Scheduled Tribe covered by the Schedule to the Constitution (Dadra and Nagar Haveli) Schedule Tribes Order, 1962.

Sine I intend to contest the election, I have given up my post of Investigator from 21-11-1984, under Rule 5(1)(a) of the C.C.S. Temporary Service Rules, 1965, my service can be terminated by me by giving a notice in writing to the appointing authority. Accordingly I have addressed a letter dated 21-11-1984 to the Collector Dadra and Nagar Haveli informing him that I have given up my post of Investigator, and I cease to be a Temporary Government servant from the date of the letter. I say that under Rule 5 of the C.C.S. Rules, I am only required to give one month's notice and no further act is required to be done for termination of my services. In particular the same notice is neither to be replied to or even considered by the appointing authority. The said notice under Rule (1) has been given by me on 21-11-1984 a copy of the same is hereto annexed and marked Annexure A. I say that the said letter was received by the Collector's office on 21-11-1984 itself. That thereafter on 23-11-1984 one express Telegram has been sent by me to the Administrator, Dadra and Nagar Haveli informing him that I have given up my service as temporary servant on 21-11-1984. A copy of that telegram is hereto annexed as Annexure B. I say that I have ceased to be a Government servant on 21-11-1984 when I have given one Month's notice pay. In any case there can be no doubt my services will come to end by operation of statute after the period of one month, that is, say on 20-12-1984. Thus I will not be holding any office of profit with the Government of India on 24-12-1984 which is the declared date of election in Dadra and Nagar Haveli. Under the circumstances, I will have no disqualification for being chosen as a Member of Parliament on 24-12-1984 as contemplated by Article 102 of the Constitution of India. I am addressing this letter to you out of abundant caution as I fear that the sitting member of Parliament Mr. Ramji Pitia Mahala, who is a close friend of the Collector, Dadra and Nagar Haveli has improperly prevailed over the Collector, Dadra and Nagar Haveli to sleep over my letter dated 21-11-1984 and may take up the wrong contention that I will be holding an office of profit with the Central Government I once again state that without prejudice to my contention that I have ceased to be a Government servant on 21-11-1984 itself, in any case I shall cease to be one on 20-12-1984. This position cannot be in dispute in view of the absolutely clear position of Rule 5 of the C.C.S. Rules, 1965. For the sake of convenience the relevant portion of the said Rules and Article 102 of the Constitution of India is reproduced in an annexure marked Annexure C.

I pray that the aforesaid contention may be borne in mind when my nomination papers are scrutinised on 28-11-1984.

Yours faithfully,

Sd/-

(SITARAM J. GAVALI)

Copies of the above letter were sent by the appellant to the Administrator, Dadra and Nagar Haveli, Cabo Niwas, Panjim, Goa, Election Commission of India, Chief Electoral Officer, Dadra and Nagar Haveli and to SC/ST Commissioner for information and necessary action. On the same date he received a reply from the office of the Administrator, Dadra and Nagar Haveli which read as follows :

"No. ADM|SECT|MISC|SJG/84

Administration of
Dadra and Nagar Haveli,
Silvasa, Dt. 26-11-1984.

To

Shri Sitaram J. Gavali,
Investigator,
(Through the D.P.O.)
Dadra and Nagar Haveli,
Silvasa.

I am directed to refer to your letter dated 21-11-1984, addressed to Collector, under which you had issued notice under Rule 5(1) (a) of CCS Temporary Service Rules and stated that you are giving up your post forthwith and had tendered pay and allowance of one month. In this connection I am directed to inform you that the said notice was examined in the Administration. Necessary legal opinion was also obtained. The case was also referred to the Government of India, in the Ministry of Home Affairs, through Crash Wireless Message dated 23-11-1984. As per Government of India's decision, your notice of termination of service takes effect on the expiry of the prescribed period of one month. There is no provision under Rule 5(1) of the CCS Temporary Service Rules under which a Government servant can deposit one month's pay in lieu of the purchase of period of notice. Hence as per Rule 5(1) of the CCS Temporary Service Rules quoted by you, the notice of termination of your service will take effect only after the expiry of one month from the date of submission of notice.

Sd/-

(S.S. Kolvekar)

Governor to the Administrator,
Dadra and Nagar Haveli,
Silvasa."

The above letter stated that the Ministry of Home Affairs, Government of India had been contacted by the Collector in connection with the letter of resignation submitted by the appellant on 21-11-1984 and necessary legal opinion had been obtained thereon. The said letter, however informed him that there was no provision under Rule 5(1) of the CCS Temporary Service Rules under which a temporary Government servant could deposit one month's pay in lieu of the period of notice issued under Rule 5(1) of the said Rules and that the notice of termination of service issued by the appellant would, therefore, take effect only upon the expiry of one month from the date of the receipt of the notice.

In other words, the said letter stated that the appellant would continue to be a temporary Government servant till 21-12-1984. In reply of the said letter, the appellant wrote a letter dated 27-11-1984 to the Secretary to the Administrator, Dadra and Nagar Haveli which read thus:

"From :

Sitaram Jivabhai Gavali,
Silvasa.

27-11-1984

To

Secretary to the Administrator,
Dadra and Nagar Haveli,
Silvasa.

Subject : Lok Sabha Election matter.

Sir,

I the undersigned Shri S. J. Gavali beg to state as under :

(1) I have received your letter No. ADM/Secy/Misc/SJG/84 dated 26-11-1984. I have been informed by you that the notice of termination of my services will take effect only after the expiry of one month from the date of submission of notice. In this connection, I am to state that I had been appointed as Jr. Clerk vide Administration Order No. ADM/EST/C/RCC/1466/1979 dated 2-8-79. The said appointment is subject to the conditions fixed by the administration.

As per the condition No. 2 the appointment is purely on temporary basis and is liable to be terminated at one month's notice and as per the condition No. 6 before resigning the post, I have to give one month's notice to the Administration, failing which I have to remit one month's pay before I can be relieved from service.

I have been promoted as Investigator by the Administration and my service conditions were continued.

(2) I intended to contest the forthcoming Parliament election from this area and therefore, I gave up my post and paid my one month notice pay on 21-11-1984 and tendered my notice by the said letter giving up my post as temporary Govt. servant. I have also submitted detailed representation to the Returning Officer, Dadra and Nagar Haveli, Silvasa on 25-11-1984. I have already given my charge to the Development and Planning Officer, Dadra and Nagar Haveli, Silvasa vide my letter dated 24-11-1984.

(3) I am not holding any office of profit with the Govt. of India from 21-11-1984. I have tendered notice with immediate effect and also deposited one month's pay in lieu of notice as per the terms and conditions of my appointment. I have already given my charge. My notice became effective from that very day and does not require any formal acceptance as per rules. Under the above circumstances for being chosen as a Member of Parliament.

(4) Incidentally I would like to draw your kind attention that Administration has considered many cases, and accepted the resignation with immediate effect, when the Govt. servants have tendered their resignation with one month's pay as per the terms and conditions of their appointment orders.

(5) The resignations of the following persons were accepted with immediate effect by the Collector, Dadra and Nagar Haveli, Silvasa. The said persons had paid one month notice pay.

Name	Date of acceptance of resignation.
Shri J. V. Dasai Stockman, Khanvel	12-4-1978
Shri G. V. Patel, Stockman	31-1-1983
Shri A. R. Patel, Primary School Teacher	30-8-1984
Shri D. G. Shah, High School Teacher
Shri K. G. Chauhan, Primary School Teacher	-7-1984
Shri J. D. Patel, Lineman, P.W.D., Silvasa.	10-1984

(He was relieved on same day)

The Administration should take equal decision for all employees. But different decision taken for me is against law, equity and justice.

(6) I am addressing this letter to you out of abundant caution as I fear that the sitting member of Parliament Mr. R. P. Mahala who is close friend of the present Collector has improperly prevailed over the Collector to sleep over my letter dated 21-11-1984 and taken wrong contention.

(7) The reply given by your office vide letter No. ADM/Secy/Misc/SJC/84 dated 26-11-1984 is not as per law and against the relevant rules and regulations and terms of my appointment order.

(8) My right to contest the election should not be deprived. I, therefore, request you to kindly look into the matter personally and give me justice properly.

I am quite eligible to contest the election. I have explained clear position to you. I therefore request you to do the needful in the interest of natural justice and protect the right of citizen. If you take any adverse action for my election activities, I shall take all legal actions as per the circumstances of my case would warrant against you with your costs and consequences, which please note.

Yours faithfully,

Sd/-

(S. J. GAVALI)"

In the above letter, the appellant, specifically drew the attention of the Administration to Condition No. 6 in his letter of appointment which authorised him to resign his service on remitting 'one month's notice pay'. He pleaded in the said letter that since he had remitted 'one month's notice pay' and also handed over the charge by delivering all the files, registers, records etc. which were with him on 24-11-1984 he had ceased to be a Government servant. He also mentioned in the said letter that earlier the Collector had accepted the resignations of six temporary Government servants on payment of 'one month's notice pay'. In reply to the above letter he got a reply from the Development and Planning Officer, Dadra and Nagar Haveli, Silvassa on December 21, 1984 along with the demand draft for Rs. 1024.05 paise which had been deposited by the appellant on 21-11-1984. The said letter read thus :

"Administration of
Dadra and Nagar Haveli, U.T.
(Department of Rural Development)
No. DPO/EST/EF-SJG/84-85/2153
Silvassa, 21-12-1984

To

Shri Sitaram J. Gavali,
Investigator,
Dadra and Nagar Haveli
At and Post : Khanval.

Sir,

I am directed to refer to this Administration's letter No. ADM/SECY/MISC/SJC/84 dated 26-11-84 and as mentioned therein, your notice of termination of services takes effect on the expiry of the prescribed period of one month. There is no provision under Rule 5(1) of the CCS (Temporary Services) Rules, 1965, under which the Government servant can deposit one month's pay in lieu of the prescribed period of notice.

Under the circumstances, the demand draft of the State Bank of India, Silvassa Branch bearing No. C-199981 dated 21-11-1984 of Rs. 1024.05 received along with your application dated 21-11-1984 is returned herewith.

Kindly acknowledge the receipt for the same.

Yours faithfully,
Sd/-

Development and Planning Officer
Dadra and Nagar Haveli,
Silvassa."

In the meanwhile on 28-11-1984, i.e., the date of scrutiny of the nomination papers, the Returning Officer passed the following order overruling the objection which had been raised by the 1st Respondent to the nomination of the appellant :

"I have examined this nomination paper in accordance with section 36 of the Representa-

tion of the People Act, 1951, and decide as follows :

An objection was raised during scrutiny of this nomination paper, by the authorised person of the candidate Sh. Mahala Ramjibhai Potiabhai, that Shri Gavali Sitaram Jiyabhai is holding as on today, an office of profit under the Administration of Dadra and Nagar Haveli and hence he is disqualified to be a Member of House of People in accordance with Article 102 of the Constitution of India. A summary enquiry was held on this objection and both the sides were heard. On the basis of arguments advanced and evidence adduced before me I have a doubt as to whether Shri Gavali Sitaram Jiyabhai holds an office of profit as on today, under the Administration of Dadra and Nagar Haveli. Hence I decide to give the benefit of this doubt to the candidate and accept this nomination.

Sd/-

28-11-1984

Returning Officer
Dadra and Nagar Haveli, Silvassa

Accordingly, the nomination papers of the appellant were accepted and since there was a contest, the poll took place on the appointed day. At the said election, the appellant secured the highest number of votes and he was declared as elected. As mentioned earlier, the 1st Respondent filed the election petition before the High Court. At the conclusion of the trial, the learned Judge, who heard the election petition, having noticed the presence of Condition No. 6 in the letter of appointment issued to the appellant which enabled the appellant to resign from his post by tendering one month's pay plus allowances, held that the letter of resignation was one which had been served on the Government under Rule 5(1)(a) of the CCS Temporary Rules and was not one under Condition No. 6 of the letter of appointment. He further held that even assuming that the letter of resignation had been submitted pursuant to Condition No. 6 of the letter of appointment, the resignation did not take effect, since the appellant had not been 'relieved from the service' as required by Condition No. 6 of the letter of appointment before the date of scrutiny. He further held that the submission of files, records, papers etc. by the appellant did not mean that he had been 'relieved from service' as it was his unilateral act. Accordingly, the learned Judge came to the conclusion that the resignation did not take effect till the expiry of one month from the date of the letter of termination, i.e., till the expiry of December 21, 1984 and consequently the appellant was holding an office of profit on the date of scrutiny of the nomination paper. The learned Judge held that the holding of the said office of profit amounted to a disqualification under clause (a) of Article 102(1) of the Constitution of India. In the result the election petition filed against the appellant was allowed and the election of the appellant was declared as void under section 98 of the Act.

The above appeal came up for hearing before this Court in March 1986. On that occasion, after hearing the learned counsel for both the parties, this Court

passed on order dated March 11, 1986 remitting the case to the High Court under Order 41 Rule 25 of the Code of Civil Procedure. The said order reads thus :

"On hearing counsel and on going through the judgment of the High Court and the application for amendment of the written Statement now filed by the appellant (the returned candidate who has been unseated) before us we feel that the Amendment prayed for should be allowed. The matter will have to go back to the High Court for this limited purpose with a direction to record and forward to this Court its findings on the issues that may arise in the light of the amended Written Statement and the additional pleadings if any that may be filed by the election petitioner in the election petition. We, therefore, in the interests of justice allow the amendment of the Written Statement as prayed and direct the High Court to try issues arising out of the amended part of the Written Statement and additional pleadings, if any, to be filed by the petitioner as per Order 41 Rule 25 C.P.C. We further direct the High Court to forward its findings to this Court on or before 31st August, 1986. The parties will be at liberty to adduce additional evidence if they so desire. Upon the findings being recorded by the High Court the parties are directed to file their objections to the findings submitted by the High Court on or before 15th of September, 1986. This case may be posted in the 3rd week of September for further hearing. The original record may be sent back to the High Court along with a copy of this order within one week from today."

After the above order was passed the written statement of the appellant before the High Court was amended and additional issues were framed. After recording the evidence adduced by the parties and hearing the parties, the High Court recorded its Annexure findings on the additional issues framed in the election petition and submitted them to this Court. The additional issues that were framed pursuant to the order passed by this Court were these :

"1. Whether the acceptance of the files and records in the possession of the 1st respondent by the Development and Planning Officer, Dadra and Nagar Haveli, amounted to acceptance by conduct of the 1st respondent's resignation, as alleged in paragraph 5A of the statement of Defence ?

2. Whether the absence of any negative response by 28th November, 1984 to the 1st respondent's letter dated 25th November, 1984 submitted to the office of the Collector of Dadra and Nagar Haveli amounted to acceptance by conduct by the Collector of the 1st respondent's resignation, as alleged in the aforesaid paragraph ?

3. Whether acceptance of the 1st respondent's application made after 21st November, 1984 relates back to the date of the application as alleged in the aforesaid paragraph ?

4. Whether the Collector, by not passing any orders on the application, is deemed to have accepted the resignation, as alleged in the aforesaid paragraph ?"

The learned Judge answered all the above issues in the negative and against the appellant. The appeal was taken up for hearing again after the receipt of the records from the High Court.

The first question which arises for consideration in this case is whether the letter of resignation dated November 21, 1984 should be treated as one submitted under Rule 5(1) of the CCS Temporary Service Rules. It is true that in the letter of resignation the appellant states that 'this letter of giving up my post as temporary Government servant is covered by Rule 5(1) (a) of the CCS Temporary Service Rules' and that there is no specific reference to Condition No. 6 of the letter of appointment which authorised the appellant to resign from his post by remitting one month's pay plus allowance to the Government. Still in the circumstances of the case we feel that the finding of the learned Judge of the High Court that it could be treated only as letter of resignation under Rule 5(1)(a) of the CCS Temporary Service Rules is unsustainable. Clause (a) of Rule 5(1) of the CCS Temporary Service Rules authorises the termination of temporary service of a Government servant (who is not a quasi-permanent servant) at any time by a notice in writing given either by the Government servant to the appointing authority or by the appointing authority to the Government servant. Clause (b) of Rule 5(1) of the CCS Temporary Service Rules prescribes the period of such notice as one month. The proviso to Rule 5(1), however, authorises the appointing authority and not the Government servant to terminate the temporary service of the Government servant forthwith and that on such termination the Government servant becomes entitled to claim a sum equivalent to the amount of his pay plus allowances for the period of the notice at the same rates at which he was drawing them immediately before the termination of his service, or as the case may be for the period by which such notice falls short of one month. There is no provision in the CCS Temporary Service Rules which authorises a Government servant to bring about the termination of his temporary service as provided in Rule 5(1) by paying a sum equivalent to the amount of his pay and allowances of the period of notice at the same rates at which he was drawing them immediately before termination of his service or as the case may be for the period by which notice falls short of one month. But it needs to be emphasized that in his letter of resignation the appellant had clearly conveyed that he was giving up the post held by him forthwith and he was tendering along with the said letter a demand draft drawn on the State Bank of India, Silvassa Branch for a sum of Rs. 1024.05 paise. He also stated in the said letter that he would cease to be a temporary Government servant from that date. If the letter of resignation was truly one which had been submitted under Rule 5(1) of the CCS Temporary Service Rules which did not envision tendering of one month's salary by the employee, there was no necessity to tender a demand draft for Rs. 1024.05 paise. Such payment was contemplated only when the resignation

was under Condition No. 6 of the letter of appointment issued in favour of the appellant about which the appointing authority could not have been unaware. If the concerned authority had not realized that it was a resignation pursuant to such condition the said authority would have returned (instead of retaining) the demand draft at once or at the earliest. That he did not do so tells its own tale. The existence of Condition No. 6 in the letter of appointment is not in dispute. The appellant had drawn the attention of the Administration of the Dadra and Nagar Haveli to the acceptance of resignations of six officials who were similarly placed forthwith by the Administration on payment of one month's pay plus allowances. It may also be noted that in his letter dated 27-11-1984 the appellant had clearly stated in terms that the letter of resignation had been submitted in pursuance of Condition No. 6 of his letter of appointment. The correctness of the statement in the deposition of the Planning and Development Officer, who was examined after remand that a letter dated 24-11-1984 as per the original or Additional Ex. D2 had been sent to the appellant informing the appellant that his letter of resignation was under consideration, is in dispute. The appellant has denied the receipt of the same. There is no evidence supporting the service of that letter on the appellant. This circumstance cannot, therefore, be treated as having been established. We, therefore, do not agree with the finding of the learned Judge of the High Court that the letter of resignation submitted by the appellant on 21-11-1984 was one submitted under Rule 5(1) of the CCS Temporary Service Rules. It is further seen that the Administration has withdrawn by a specific order subsequently the condition which authorised a temporary Government servant to resign from his post forthwith by tendering a month's pay plus allowances. The letter of resignation of the appellant was one which was submitted pursuant to Condition No. 6 of his letter of appointment which was one more method adopted and accepted by the Administration to bring about the termination of service of a temporary Government servant. It is significant that the Ministry of Home Affairs had not noticed the existence of Condition No. 6 when it was consulted by the Collector as this aspect was not brought to the notice of the Ministry. The said condition was only supplementary to the modes of termination of temporary service, referred to in Rule 5(1) of the CCS Temporary Service Rules and it was not in any way inconsistent with the said Rules. As a matter of fact it was not even suggested or faintly hinted in the High Court that there was any such inconsistency. It is well-recognised that a new service condition may be brought into effect by an executive order and such condition would remain in force as long as it is not repealed either expressly or by necessary implication by another executive order or a rule made under the proviso of Article 309 of the Constitution of India or by a statute. It is not shown in the facts and circumstances of the case and the material produced in the Court that there is any inconsistency between Condition No. 6 and any other order, rule or law. In the circumstances we hold that the letter of resignation is one submitted pursuant to Condition No. 6 in the letter of appointment issued in the case of the appellant.

The next point for consideration is whether there has been full compliance with Condition No. 6 of the letter of appointment of the appellant. Admittedly, the demand draft for Rs. 1024.05 paise which was equivalent to the pay plus allowances, which the appellant was drawing every month immediately prior to the date of his letter of resignation had been tendered along with the letter of resignation as enjoined by Condition No. 6. The only question that remains to be considered is whether the appellant had been relieved from his service by the Administration. Condition No. 6 provided that 'before resigning the post, he shall have to give one month's notice to the Administration failing which he shall have to remit one month's period pay before he could be relieved from service'. No rule or executive order prescribing the method or manner in which a temporary Government servant of the rank of an Investigator could be relieved from service under Condition No. 6 of the letter of appointment is brought to our notice. For it is shown by adducing any evidence as to what practice had come in vogue as regards relieving such a person. The resignation contemplated under Condition No. 6 is not the same as the letter of resignation which may be submitted by a Government servant on the acceptance of which he ceases to be a Government servant. In the case of an ordinary resignation which is governed by the Memorandum No. 39/6/57-Ests.(A) Ministry of Home Affairs dated 6th May, 1958 no question of paying a month's salary or allowance to the Government would arise. It is implicit in such a condition that the nature of his employment is such that he can be relieved forthwith without the need for waiting for a month and that he would be so relieved as was indeed done in the case of others governed by such a condition. The only thing that has got to be decided in this case is whether the appellant had been actually relieved from service. There is no dispute that at 10.00 A.M. on 24-11-1984, before the appellant submitted his nomination paper to the Returning Officer, he had handed over all the records, registers, files etc. which were with him to the head of his office along with a letter, a copy of which was submitted to the Collector, who was the appointing authority. This cannot be termed as an unilateral act of the appellant. There was no refusal to accept the records. There was no order to report for duty and discharge any functions. The appellant had not, in fact, been paid any salary or allowance for the period subsequent to 20-11-1984, that is, the date previous to the date of the letter of resignation. He had not attended and he was not required to attend his office from 21-11-1984 except for handing over the records, files, registers etc. on 24-11-1984. The appellant was not asked by the Collector to attend the office till 21-12-1984 nor grievance was made against him for his absence in the wake of his resignation. There was no disciplinary proceeding or any other kind of enquiry pending against the appellant which required the appointing authority not to relieve the appellant from his service in the public interest. And there was no objection raised as a matter of fact on any ground to his being treated as having ceased to be in service eventually till the expiry of one month from the date of his service. It is not as if for administrative reasons his resignation was not acceptable for any reason. It

appears to us that the appellant's resignation had become effective at least on the day on which the records were handed over, that is before the date of scrutiny and he had ceased to hold an office before the date of scrutiny. The Returning Officer had rightly overruled the objection and accepted his nomination paper. It is not established by the election petitioner on whom the onus rested that the returned candidate held an office of profit on the date of scrutiny or that his nomination paper was wrongly accepted by the Returning Officer. He cannot therefore successfully assail the election of the returned candidate, the appellant herein. In these circumstances we are of the view that the appellant should be deemed to have been relieved from his service at 10.00 A.M. on 24-11-1984 and he had ceased to be a Government servant before he submitted his nomination paper on 24-11-1984.

In the view we have taken it is not necessary to go into the question whether the Collector had deliberately delayed the acceptance of the resignation of the appellant with a view to assisting the 1st Respondent, who was a Member of the last Lok Sabha, as alleged by the appellant.

We, therefore, allow this appeal, set aside the judgment of the High Court and dismiss the election petition. The appellant is entitled to the costs both before the High Court and in this Court which we quantify at Rs. 5,000. The 1st Respondent shall pay the costs of the appellant. The appeal is accordingly allowed.

Sd/-

.....J.
B. S. VENKATARAMIAH

Sd/-

.....J.
M. P. THAKKAR

New Delhi,
March 25, 1987.

IN THE HIGH COURT OF JUDICATURE AT BOMBAY IN ITS ORDINARY ORIGINAL CIVIL JURISDICTION

ELECTION PETITION NO. 1 OF 1985

Shri Ramiibhai Potiyabhai Mahala, adult, resident of Kanncha, Post Dudhani, Dadra and Nagar Haveli.—Petitioner.

Vs.

1. Sitaram Jivayabhai Gavli, resident of Mandoni, Dadra and Nagar Haveli.
2. Natubhai Dhanubhai Patel, at and Post Sukhala Tal. Dharampur, Distt. Valsad, State of Gujarat.
3. Barai Sanibabhai Mudrabhai at Galonda, Post Kalavni, Dadra and Nagar Haveli.—Respondents.

Mr. C. J. Sawant, Advocate, for the Petitioner.

Mr. L. R. Chari with Mr. R. S. Mohite, for the Respondent No. 1.

Coram : BHARUCHA J.

Date : 4th August 1986 &
5th August 1986.

ORAD JUDGMENT :

This election petition was decided by me on 2nd April 1985. I held that the election of the 1st respondent to Parliament from the Dadra and Nagar Haveli Parliamentary Constituency was void. The 1st respondent preferred an appeal to the Supreme Court. During the hearing thereof the 1st respondent made an application for the amendment of his Statement of Defence. The Supreme Court allowed the amendment and directed this court to try issues arising thereout. The Supreme Court gave the parties liberty to adduce additional evidence if they so desired. It is in these circumstances that the petition comes to be heard by me once again.

To appreciate the issues that now arise it is necessary briefly to recapitulate the facts.

On 2nd May 1979 the 1st respondent was appointed a junior clerk in the Administration of the Union Territory of Dadra and Nagar Haveli. His appointment letter set out that he would be governed by the Central Civil Service Rules, that the appointment was purely temporary and liable to be terminated by one month's notice and that, before resigning the post, the 1st respondent would have to give one month's notice to the Administration failing which he would have to remit one month's notice pay before he could be relieved from service.

On 13th November 1984 general elections to Parliament were notified.

On 21st November 1984 the 1st respondent wrote a letter to the Collector, Dadra and Nagar Haveli, (referred to in the original judgment and here as "the letter of termination"). The 1st respondent stated therein, that he intended to contest the forth-coming Parliamentary election from the Dadra and Nagar Haveli Parliamentary Constituency; that he gave up the post that he was holding as a temporary Government servant forthwith; and that, as he was giving up his post forthwith, he tendered therewith his pay plus allowances for one month. He asserted that the giving up of his post was covered by Rule 5(1)(a) of the Central Civil Service Rules (hereinafter referred to as "the said Rules").

On 23rd November 1984 the 1st respondent sent a telegram to the Lt. Governor of Goa, Daman and Diu, who is the Administrator of Dadra and Nagar Haveli. He stated that he gave up his temporary post crediting one month's pay plus allowances under the said Rule 5(1)(a).

On 24th November 1984 the 1st respondent wrote to the Development and Planning Officer, Dadra and Nagar Haveli, a letter which has come on record during the course of this further hearing. The 1st respondent recorded therein that he had requested

that the office files should be taken from him but had been informed that they could be taken only after the orders of the Collector were obtained. He had met the Collector and the Secretary to the Administrator twice on 23rd November 1984 and they had informed him that he was no more in Government service, by reason of the letter of termination he had ceased to be a Government servant from 21st November 1984. Under the circumstances, he submitted all the files. Annexed to the letter was a statement itemizing the files.

On the same day, i.e., 24th November 1984, the Development and Planning Officer wrote to the 1st respondent a letter which also comes on record in the course of this further hearing. The Development and Planning Officer stated that the matter regarding the 1st respondent giving up his service was under the consideration of the Administration.

On 26th November 1984 the Secretary to the Administrator wrote to the 1st respondent with reference to the letter of termination. He stated that under the said Rule 5(1) quoted by the 1st respondent, the notice of termination of his service would take effect only after the expiry of one month from the date of submission thereof.

On 27th November 1984 the 1st respondent replied to the Secretary to the Administrator and quoted condition No. 2 of his letter of appointment as also condition no. 6 thereof, which spoke of resignation.

In the meantime, on 26th November 1984 the 1st respondent addressed a letter to the Returning Officer, Dadra and Nagar Haveli, who was in fact the Secretary to the Administrator. He referred to the said Rule 5(1)(a) whereunder, according to him, he could terminate his service by giving a notice in writing to the appointing authority. He had, therefore, given up his post and ceased to be a temporary Government servant from the date of the letter.

On 28th November 1984, the date fixed for scrutiny of nomination papers, the petitioner objected to the 1st respondent's nomination and the Returning Officer passed an order after a summary enquiry during which both sides were heard. He gave to the 1st respondent the benefit of doubt as to whether the 1st respondent held an office of profit on that day and accepted his nomination.

On 30th November 1984 a list of contesting candidates for Dadra and Nagar Haveli Parliamentary Constituency was notified by the Returning Officer. The petitioner and the 1st respondent were named therein. On 24th December 1984 polling took place. On 28th December 1984 the results of the election were declared and the 1st respondent was declared duly elected.

On 18th January 1985 this petition was filed. It was heard by me and decided on 2nd April 1985.

Correspondence was then tendered in evidence by consent. Only the 1st respondent then gave oral evidence. He stated in examination-in-chief that he had met the Collector on 22nd and 23rd November

1984 and had requested him to take charge as he was giving up his post. The Collector had not given him a proper answer. On 24th November 1984 he had made a written submission to the Development and Planning Officer tendering all his files to him. In cross-examination the 1st respondent admitted that when he handed over the files to the Development and Planning Officer, it was an unilateral act on his part.

It was then urged by counsel for the petitioner that the 1st respondent was disqualified from being chosen as a member of Parliament for a period of one month from the date of service or the letter of termination, that is, 'until 21st December 1984, having regard to the provisions of the said Rule 5(1). Counsel for the 1st respondent submitted, first, that the 1st respondent's appointment letter supplemented the conditions of his service prescribed under the said Rules and furnished the 1st respondent with two alternative modes of terminating his employment as a Government servant: while clause 2 of his appointment letter dealt with the mode of termination provided under the said Rule 5(1), clause 6 provided the independent mode of resignation. He submitted, next, that the letter of termination was a letter of resignation under clause 6 and was independent of the mode furnished by the said Rule 5(1). The 1st respondent's resignation, according to his counsel, became effective on 21st November 1984 itself since it required no acceptance. Alternatively, it was submitted that the 1st respondent was entitled, under the provisions of the said Rule 5(1) and its proviso, to terminate his service forthwith by paying to Government the equivalent of one month's salary and allowances.

I proceeded in my judgment upon the assumption that the 1st respondent's appointment letter supplemented the conditions of his service prescribed by the said Rules and that clause 6 of the appointment letter furnished him with resignation as a mode of terminating his service. The question that immediately arose was whether the letter of termination was a letter of resignation or a notice of termination of service under the said Rule 5(1). Having regard to the correspondence that had been tendered, I did not accept the submission on behalf of the 1st respondent that the letter of termination was a letter of resignation under clause 6 of his appointment letter. There was no doubt in my mind that the 1st respondent was, by the letter of termination, adopting the mode furnished by the said Rule 5(1) for terminating his service with Government. I proceeded further upon the basis that I was wrong in this conclusion and that the letter of termination was a letter of resignation. Upon that basis, I feared that the unilateral act of the 1st respondent could not bring about the termination of his service. It was contended before me even at that stage by his counsel that the 1st respondent was relieved from service when he sent in his files on 24th November 1984. I found that, since it was his own unilateral act and it was clear from the letter dated 26th November 1984 addressed to him by the Secretary to the Administrator that he was not relieved from service, his service would stand terminated only on 21st December 1984. I could not conclude, as I was invited by counsel for the 1st respondent to do, that there was an absolute obliga-

tion cast upon Government to relieve the 1st respondent from service immediately upon the remission by him of one month's pay. Assuming that the letter of termination was a letter of resignation, the resignation became effective only one month after the date of its service, that is, on 21st December 1984. The 1st respondent's argument that the proviso to the said Rule 5(1) gave a Government forthwith upon payment to Government of the sum of one month's pay and allowances was, having regard to the precise language of clause (1) and its proviso, unacceptable. In the result, I held that the 1st respondent was holding an office of profit under the Government of India and was, under Article 102 of the Constitution of India, disqualified from being chosen as a member of Parliament on the date of scrutiny of his nomination papers, i.e., on 28th November 1984 and therefore, his election was void.

The amendment of the 1st respondent's State of Defence which was allowed by the Supreme Court consists of four paragraphs (paragraphs 5A to 5D). The only issues that arise are on the first of the four paragraphs (paragraph 5A). Paragraphs 5B, 5C and 5D contain further arguments on the issues which were already decided by me. While framing additional issues only upon paragraph 5A, therefore, I gave counsel liberty to address me on the further arguments contained paragraphs 5B, 5C and 5D.

The additional issues framed are self-explanatory and read thus :

1. Whether the acceptance of the files and records in the possession of the 1st respondent by the Development and Planning Officer, Dadra and Nagar Haveli, amounted to acceptance by conduct of the 1st respondent's resignation, as alleged in paragraph 5A of the Statement of Defence ?
2. Whether the absence of any negative response by 28th November 1984 to the 1st respondent's letter dated 25th November 1984 submitted to the office of the Collector of Dadra and Nagar Haveli amounted to acceptance by conduct by the Collector of the 1st respondent's resignation, as alleged in the aforesaid paragraph ?
3. Whether acceptance of the 1st respondent's application made after 21st November 1984 relates back to the date of the application, as alleged in the aforesaid paragraph ?
4. Whether the Collector, by not passing any orders on the application, is deemed to have accepted the resignation, as alleged in the aforesaid paragraph ?

(Judgment continued on 5th August 86)

The 1st respondent has now led the evidence of J. R. Mahyavanshi, who was the Development and Planning Officer at the relevant time, of S. S. Kolvekar, who was the Secretary to the Administrator, and of Hauzel Haukham, who was the Collector.

Mahyavanshi deposed that he had received the letter of termination and had forwarded it to the Competent authority, i.e., to the Collector. He had

on 24th November 1984 addressed a letter to the 1st respondent in connection with the 1st respondent's letter of the same date addressed to him. His letter informed the 1st respondent that the matter regarding his giving up of service was under the Administration's consideration. His letter was posted to the 1st respondent by registered post, A.D. His department had not received the acknowledgement, but the outward register maintained by it would show the letter's despatch. The witness refuted the suggestion, made in the course of examination-in-chief itself by the 1st respondent's counsel, that that letter had not been sent to the 1st respondent. No payment of salary had been made to the 1st respondent for the period subsequent to 20th November 1984. There is nothing in the cross-examination of Mahyavanshi worthy of note.

Kolvekar deposed that he was the Secretary to the Administrator in November 1984 and had also been appointed the Returning Officer for the Dadra and Nagar Haveli Parliamentary Constituency for the Parliamentary elections held in November 1984. The letter dated 26th November 1984 had been written by him to the 1st respondent under the Collector's directions. He had personal knowledge of the Government of India's decision referred to in that letter. As far as he could recall, the decision was communicated by a wireless message from the Ministry of Home Affairs, New Delhi, and what was contained in the last two sentences of that letter was contained in the wireless message. From his files the witness produced the transcript of two wireless messages, the first dated 24th November 1984 from the Special Commissioner to the Government of Goa, Daman and Diu, New Delhi, and the other dated 28th November 1984 from the Home Ministry, New Delhi. The wireless messages substantially bear out what is stated in the last portion of witness' letter dated 26th November 1984, namely, that, as decided by the Government of India, the 1st respondent's letter of termination would take effect on the expiry of the period of one month and that there was no provision under the said Rule 5(1) for the deposit by a Government servant of one month's pay in lieu of the period of notice. Kolvekar stated that he was not personally aware of any steps taken to recall the 1st respondent to duty upto 20th December 1984. In cross-examination he stated that he was subordinate to the Collector.

Haukham, who was the Collector between March 1981 and March 1985, deposed that he saw the letter of termination for the first time when it was put up with a note by the Secretary to the Administrator. The note was put up on 22nd November 1984. He made an endorsement thereon on 23rd November 1984. He had on 23rd November 1984 sent a crash wireless message to the Home Ministry, New Delhi, in connection with the letter of termination. The 1st respondent had met him on 23rd November 1984 and had requested to be relieved early from service. Haukham denied that he had told the 1st respondent that he was no more in Government service. He was unable to recall whether he had received the copy of the 1st respondent's letter dated 24th November 1984 addressed to the Development and Planning Officer, though he was shown a copy of it endorsed to him from the files. On and after 28th November

1984, being the date on which the second of the wireless messages from New Delhi was received, he was clear that the 1st respondent continued in Government service upto 20th December 1984. He had informed the Secretary to the Administrator, as far as he could recall on 24th November 1984, that the 1st respondent would remain in service until 20th December 1984. He had not given instructions that the 1st respondent should be recalled to duty. Haukham was not cross-examined.

This brings me to consider the aforesaid evidence in relation to the first of the additional issues. It is in evidence that the Collector was the competent authority to accept the 1st respondent's termination or resignation. The Development and Planning Officer was subordinate to the Collector. Therefore, the acceptance of the 1st respondent's files by the Development and Planning Officer could, in no circumstances, amount to acceptance by conduct of the 1st respondent's resignation.

Further, the evidence of the Development and Planning Officer is that he had written to the 1st respondent on 24th November 1984 a letter wherein he had stated that the matter regarding the 1st respondent giving up his service was under the Administration's consideration and that he would be told to hand over charge when the giving up of service was accepted by the Administration. In examination-in-chief, a suggestion was made to the witness by counsel for the 1st respondent that this letter had not been sent to the 1st respondent; the witness said the suggestion was not correct. He said that the letter had been sent by registered post A.D. and that the outward register would show its despatch. There is little doubt that the letter was despatched. It is true that the acknowledgement slip therefor was not received but it is significant that the 1st respondent did not step into the witness-box to depose that he had not received this letter. This letter shows that the conduct of the Development and Planning Officer was to inform the 1st respondent that the termination of his service was not an accepted fact but was under consideration.

It must also be noted that when the 1st respondent had earlier deposed he had said that the act of handing over the files was his unilateral act.

It is not, therefore, possible to hold that the acceptance of the 1st respondent's files by the Development and Planning Officer amounted to acceptance by conduct of his resignation.

It appears that the reference to the letter of 25th November 1984 in paragraph 5A of the Statement of Defence is an error and that the reference is really intended to be to the 1st respondent's letter dated 24th November 1984 addressed to the Development and Planning Officer. I proceed to discuss the evidence on this basis in relation to the second of the additional issues.

The letter of termination dated 21st November 1984 was received by the Development and Planning Officer and was put up with a note to the Collector on 22nd November 1984. The Collector made an endorsement thereon on 23rd November 1984 and

sent a crash wireless message in his behalf to the Ministry of Home Affairs, New Delhi. The Collector and the Secretary to the Administrator received in response wireless message on 24th November 1984 and 28th November 1984 which stated that the Home Ministry's position was that the 1st respondent would cease to be in Government service only after the expiry of one month from the date of service of the letter of termination. It is in evidence that the Collector informed the Secretary to the Administrator that the 1st respondent would remain in service until 20th December 1984. It is also in evidence that, under the Collector's directions, the Secretary to the Administrator wrote to the 1st respondent the letter dated 26th November 1984. He set out therein the gist of the Home Ministry's decision and pointed out to the 1st respondent that the notice of termination would take effect only after the expiry of one month from the date of submission thereof.

In the circumstances, it is not possible to hold that there was no response until 28th November 1984 to the 1st respondent's letter of termination or to his letter dated 24th November 1984 addressed to the Development and Planning Officer, with a copy to the Collector. I say this on the assumption that the Collector had indeed seen the copy of this letter endorsed to him, though he was unable to recall in the course of the evidence that he had done so. The second additional issue must, accordingly, also be answered in the negative.

What I have stated above applies equally to the fourth additional issue. It is not possible upon the evidence to hold that the Collector had not passed any orders on the 1st respondent's application, i.e., the letter of termination, or that, therefore, he must be deemed to have accepted the 1st respondent's resignation.

No arguments were addressed to me in relation to the third additional issue, here being no acceptance of the 1st respondent's application, there is no question of its relating back to the date thereof.

What was argued by Mr. Chari, learned counsel for the 1st respondent, runs thus: Even though the Secretary to the Administrator had written to the 1st respondent on 26th November 1984 that his service with Government would stand terminated only after the expiry of one month from the date of submission of the letter of termination, he gave to the 1st respondent on 28th November 1984, in his capacity of Returning Officer of the Dadra and Nagar Haveli Parliamentary Constituency, the benefit of doubt as to whether he held an office of profit on that day. Mr. Chari submitted that this conduct was explicable only on the basis that, by reason of the 1st respondent's letter of 24th November 1984, the Secretary to the Administrator had become aware of the terms of clause 6 of the 1st respondent's appointment letter. While the 1st respondent's letter dated 24th November 1984 did not mention clause 6 of the appointment letter, it referred to the tender of money in lieu of one month's notice "as per the law" and stated that "in view of the said provisions" the 1st respondent ceased to be a Government servant from that day. In Mr. Chari's submission, these were referen-

ces to the said clause 6 and were so understood by the Secretary to the Administrator in his capacity of Returning Officer. He, according to Mr. Chari, realised the validity of the 1st respondent's contentions and, accordingly, gave him the benefit of the doubt.

Now, the letter dated 24th November 1984 was addressed by the 1st respondent to the Development and Planning Officer. A copy thereof was endorsed to the Collector and I will as I have stated earlier, assume that the Collector had received it. There is, however, nothing on record to show that the Secretary to the Administrator was aware of this letter or its contents on 28th November 1984. He was not asked by Mr. Chari why he had given the 1st respondent the benefit of the doubt on 28th November 1984. It is not possible, in these circumstances, to draw the conclusions that Mr. Chari invites me to do.

Quite apart from all this, it is the Collector who is the competent authority and he must be shown to have accepted the resignation of the 1st respondent, whether expressly or by conduct. This has not been done.

Mr. Chari urged that the 1st respondent had not been recalled to duty upto 20th December 1984 and this indicated that his service with Government had actually come to an end on 20th November 1984. It is not in dispute that the 1st respondent was not recalled to duty, but no witness was asked why he was not recalled. Had the question been asked a witness might have given the reasonable answer that Mr. Sawant, learned counsel for the petitioner, suggested, namely, that it was a futile exercise to recall to duty a man who had announced his candidature for an election to Parliament to be held in a very few days. It is not, therefore, possible to draw the suggested conclusion that the 1st respondent's Government service came to an end on 20th November 1984.

No arguments were addressed to me in regard to paragraphs Nos. 5B, 5C, and 5D of the Statement of Defence except in regard to the fact that salary has been paid to the 1st respondent only upto 20th November 1984. Mr. Chari submitted that this led to the conclusion that the 1st respondent's service with Government ceased on 21st November 1984. Having regard to all the circumstances that are set out in this and the original judgment, I cannot upon this basis draw that conclusion. If at all the 1st respondent has a claim upon Government for one month's salary.

I have held in the original judgment that the letter of termination was a notice of termination under the provisions of the said Rule 5(1). Proceeding upon the basis that I was in error in so holding and that the letter of termination was a letter of resignation, all the additional issues must, upon the record, be answered in the negative and against the 1st respondent.

It only remains to direct the office to forward this judgment to the Supreme Court well before 31st August 1986.

Free Copy to Election Commission

In the High Court of Judicature at Bombay
Ordinary Original Civil Jurisdiction
Election Petition No. 1 of 1985

Shri Ramjibhai Potiyabhai Mahala ... Petitioner

Versus

Sitaram Jyivabhai Govli and Ors ... Respondents

Certified Copy of

Oral Judgment delivered by the Hon'ble Shri Justice Bharucha on 4th & 5th August, 1986.

नई दिल्ली, 23 अप्रैल, 1987

भा.प्र. 61.—लोक प्रतिनिधित्व अधिनियम, 1950 (1950 का 43) की धारा 13क की उपधारा (1) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, भारत निर्वाचन आयोग, सिक्किम सरकार के परामर्श से श्री के.एम.एल. छाबड़ा, आई.ए.एस. के स्थान पर श्री एच.एम. सिंह, आई.ए.एस., मुख्य सचिव सिक्किम सरकार को उनके कार्य भार सम्भालने की तारीख से अगले आदेशों तक सिक्किम राज्य के मुख्य निर्वाचन अधिकारी के रूप में एव द्वारा नामनिर्देशित करता है।

[सं. 154/सिक्किम/87]

आदेश से,
आर. पी. भल्ला, सचिव

New Delhi, the 23rd April, 1987

O.N. 61.—In exercise of the powers conferred by sub-section (1) of section 13A of the Representation of the People Act, 1950 (43 of 1950), the Election Commission of India, in consultation with the Government of Sikkim hereby nominates Shri H. M. Singh, IAS, Chief Secretary to the Government of Sikkim as the Chief Electoral Officer for the State of Sikkim with effect from the date he takes over charge and until further orders vice Shri K.M.L. Chhabra, IAS.

[No. 154/SKM/87]

By order,

R. F. BHALLA, Secy.

नई दिल्ली, 7 मई, 1987

आदेश

भा.प्र. 62.—निर्वाचन आयोग का समाधान हो गया है कि नीचे की सारणी के स्तम्भ (2) में यथा विनिर्दिष्ट विधान सभा के निर्वाचन के लिए जो स्तम्भ (3) में विनिर्दिष्ट निर्वाचन-क्षेत्र में हुआ है, स्तम्भ (4) में उसके सामने विनिर्दिष्ट निर्वाचन लड़ने वाला प्रत्येक अभ्यर्थी,

लोक प्रतिनिधित्व अधिनियम, 1951 तथा तद्वर्धन बनाए गए नियमों द्वारा अधेक्षित उक्त सारणी के स्तम्भ (5) में यथा उपस्थित रूप में अपने निर्वाचित व्यक्तियों का कोई भी लेखा रीति से तथा समय के अन्दर और रीति से दाखिल करने में असफल रहा है ;

और उक्त अभ्यर्थियों ने सम्यक सूचना दिए जाने पर भी उक्त असफलता के लिए या तो कोई कारण अथवा स्पष्टीकरण नहीं दिया है या उनके द्वारा दिए गए अभ्यवेदनों पर, यदि कोई हो, विचार करने के पश्चात् निर्वाचन आयोग का यह समाधान हो गया है कि उनके पास उक्त असफलता के लिए कोई पर्याप्त कारण या व्यायोचित्य नहीं है ;

अतः अब, निर्वाचन आयोग उक्त अधिनियम की धारा 10-क के अनुसरण में नीचे की सारणी के स्तम्भ (4) में विनिर्दिष्ट व्यक्तियों को संसद के किसी भी सदन के या किसी राज्य की विधान सभा अथवा विधान परिषद के सदस्य चुने जाने और होने के लिए इस आदेश की तारीख से तीन वर्ष की कालावधि के लिए निरहित घोषित करता है ।

सारणी

क्रम निर्वाचन का संसदीय/विधान सभा निर्वाचन लड़ने वाले निरहता का सं. विवरण निर्वाचन क्षेत्र की अभ्यर्थी का नाम कारण क्रम संख्या और नाम	क्रम संख्या और नाम	अभ्यर्थी का नाम	निर्वाचन व्यक्तियों का लेखा दाखिल हो नहीं किया है
345. आन्ध्र प्रदेश विधान सभा के लिए साधारण निर्वाचन, 1985	206-मुशीराबाद	श्री एन.एम. डेविड	निर्वाचन व्यक्तियों का लेखा दाखिल हो नहीं किया है
		1-7-509/ए/बी नारी नगर हैदराबाद आन्ध्र प्रदेश	
346. —वही—	210-खैराताबाद	श्री के. यादागिरि	—वही—
		मकान नं. एस. आर. टी.-46 आज़माबाद, रामनगर हैदराबाद आन्ध्र प्रदेश	

[सं. 76/आ.प्रा./86 (345-346)]

आदेश से,
टी. सी. सिंघल, प्रवर सचिव

New Delhi, the 7th May, 1987

ORDER

O.N. 62.—Whereas the Election Commission is satisfied that each of the contesting candidates specified in column (4) of the Table below at the election to the Legislative Assembly as specified in column (2) and held from the constituency specified in column (3) against his name has failed to lodge any account of his election expenses in the manner and within the time and in the manner as shown in column (5) of the said Table as required by the Representation of the People Act, 1951 and the Rules made thereunder.

And, whereas, the said candidates have either not furnished any reason or explanation for the said failure even after due notice or the Election Commission, after considering the representation made by them if any, is satisfied that they have no good reason or justification for the said failure;

Now, therefore, in pursuance of section 10A of the said Act, the Election Commission hereby declares the persons specified in column (4) of the Table below to be disqualified for being chosen as, and for being a member of either

House of the Parliament or of the Legislative Assembly or Legislative Council of a State for a period of 3 years from the date of this order :—

TABLE

S. No.	Particulars of election	Sl. No. & name of constituency	Name of contesting candidate & Address.	Reasons disqualifications
1	2	3	4	5
345.	General Election to the Andhra Pradesh Legislative Assembly, 1985.	206-Mushera-bad	Sh. N.M. David 1-7-509/A/B, Nari Nagar, Hyderabad. (A.P.)	Accounts election of expenses not lodged at all.
346.	—do—	210-Khairatabad	Sh. K. Yadagiri, H. No. SRT-46, Azamabad, Ramnagar, Hyderabad. (A.P.).	—do—

[No 76/AP-LA/8, (345-346)/1220]

By Order,
T.C. SINGHAL, Under Secy.
नई दिल्ली, 7 मई, 1987

आदेश

आ. प्र. 61.—निर्वाचन आयोग का समाधान हो गया है कि 1984 में हुए तमिलनाडु विधान सभा के साधारण निर्वाचन के लिए 206 विरुधुनगर निर्वाचनक्षेत्र से निर्वाचन लड़ने वाले अभ्यर्थी श्री पी. पथन्ना रेड्डी, 99-चत्रादेडियापट्टी (पोस्ट) विरुधुनगर तालुक (तमिलनाडु) लोक प्रतिनिधित्व अधिनियम, 1951 तथा तद्वर्धन बनाए गए नियमों द्वारा अधेक्षित समय के अन्दर और रीति से अपने निर्वाचित व्यक्तियों का लेखा दाखिल करने में असफल रहे हैं ;

और उक्त अभ्यर्थी ने सम्यक सूचना दिए जाने पर भी उक्त असफलता के लिए कोई कारण अथवा स्पष्टीकरण नहीं दिया है और निर्वाचन आयोग का यह भी समाधान हो गया है कि उनके पास उक्त असफलता के लिए कोई पर्याप्त कारण या व्यायोचित्य नहीं है ;

अतः अब, निर्वाचन आयोग, उक्त अधिनियम की धारा 10-क के अनुसरण में श्री पी. पथन्ना रेड्डी को संसद के किसी भी सदन के या किसी राज्य की विधान सभा अथवा विधान परिषद के सदस्य चुने जाने और होने के लिए आदेश की तारीख से तीन वर्ष की कालावधि के लिए निरहित घोषित करता है ।

[सं. 76/न. ना./87(277)]

आदेश से,

सी. एल. राज, सचिव

New Delhi, the 7th May, 1987

ORDER

O.N. 63.—Whereas the Election Commission is satisfied that Shri P. Pethanna Reddy, 99-Chatra-reddiapatti (Post) Virudhunagar Taluk (Tamil Nadu), a contesting candidate for the General Election to the Tamil Nadu Legislative Assembly held in 1984 from 206-Virudhunagar constituency has failed to lodge the account of his election expenses within the time and in the manner required by the Representation of the People Act, 1951 and the rules made thereunder ;

And, whereas, the said candidate has not furnished any reason or explanation for the said failure even after due notice and the Election Commission is further satisfied that he has no good reason or justification for the said failure ;

chosen as and for being a member of either House of Parliament or of the Legislative Assembly or Legislative Council of a State for a period of 3 years from the date of this order.

Now, therefore, in pursuance of section 10A of the said Act, the Election Commission hereby declares Shri P. Pethanna Reddy to be disqualified for being

[No. 76/TN/87(277)]

By Order,
C. L. ROSE, Secy.